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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,219	08/28/2003	Robert Sesek	200206922-1	7112

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EXAMINER	
LAM, HUNG H	
ART UNIT	PAPER NUMBER
2622	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/650,219	SESEK ET AL.	
	Examiner	Art Unit	
	HUNG H. LAM	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 January 2008 and 10 March 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-9,12 and 14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-9, 12 and 14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08/28/03* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/29/08 and 03/10/08 has been entered.

Response to Amendment

2. The amendments, filed on 01/29/08, have been entered and made of record. Claims 3, 10-11, 13 and 15-21 are canceled. Claims 1,2,4-9,12 and 14 are pending.

Response to Arguments

3. Applicant's arguments with respect to claims 1,2,4-9,12 and 14 have been considered but are moot in view of the new ground(s) of rejection.

4. The Applicant's representative admitted that "claim 12 has been amended to more clearly state that the image data capture is capable of performing a method and that the claim is clearly drawn to an apparatus" (see the Applicants remark page 6).

The Examiner agrees that claim 12 is drawn to an apparatus. However, the claim is also drawn to a method of using or performing by the apparatus. Therefore, a single claim which claims both an apparatus and the method step of using the apparatus is indefinite under 35 U.S.C 112, second paragraph. Please see MPEP 2173.05(p) section I and II.

5. The Applicant's representative argue that all elements of claim 12 as amended are an apparatus element and that one element is recited as capable of performing a method which is acceptable under MPEP 2173.05 (g). The Examiner respectfully disagrees. The claim embraces and overlaps two different statutory classes of invention set forth in 35 U.S.C. 101. Please see MPEP 2173.05(p) section II.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Since claim 12 is an improper hybrid claim calling for both an apparatus and the method steps of using the apparatus, claim 12 is indefinite under 35 U.S.C. 112, second paragraph. See MPEP 2173.05 (p). As both an apparatus and method are claimed in

the same claim, it is vague and confusing as to what the metes and bounds of the claim set forth.

8. Claims 1, 2, 4-9, 12 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 (see page 3, line 12), 9 (see page 4, line17) and 12 (see page 5, line 13) claimed "magnetic bearing from the global position coordinates". However, the specification section (0011, 0024 and 0031) discloses that magnetic bearing are provided by a compass. Nowhere in the specifications disclosed “magnetic bearing from global position coordinates”.

9. Claims 2, 4-8 and 14 are rejected as being dependent on claim 1 and 12, respectively.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 12 and 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to neither a "process" nor a "machine," but rather embraces or overlaps two different statutory classes of invention. See MPEP 2173.05 (19).

Claim Rejections - 35 USC § 102

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claims 1-2, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ball (US-7,184,088).

With regarding **claim 1**, Ball discloses a method of capturing photographic image information, comprising:

providing a camera with a global positioning system receiver (Col. 2, Ln. 34-43; Col. 12, Ln. 51-63);

capturing an image with the camera(Figs. 5; 7; camera system 100; CCD 130);

determining a position of an object of the captured image (Fig. 5; Col. 7, Ln. 43-Col. 8, Ln. 64); and

storing data indicative of the position of the object of the captured image with the image (Col. 10, Ln. 28-37; Col. 14, Ln. 63-Col. 15, Ln. 15).

obtaining global position coordinates of the camera(Col. 12, Ln. 51-63);

obtaining a range from the camera to the object (abstract; Col. 8, Ln. 40-Col. 11, Ln. 61);

obtaining a magnetic bearing of the object (Col. 12, Ln. 63-Col. 13, Ln. 3:); and

calculating the position of the object of the captured image by translating only the range and magnetic bearing from the global position coordinates to provide coordinates of the object (see Figs. 6-11; Col. 2, Ln. 34-43; Col. 10, Ln.28-58; Col. 13, Ln. 4-29).

With regarding **claim 2**, Ball discloses the method wherein the image is digital (Col. 2, Ln. 14-65; Col. 4, Ln. 65-Col. 5, Ln. 35).

With regarding **claim 12**, Ball discloses a camera, comprising:

a processor (Col. 4,Ln. 56-Col.5, Ln. 20);

an image data capture module connected to the processor (Col. 4, Ln. 56-Col.5, Ln. 20), the image data capture module to capture image data corresponding to a position of an object of a photograph taken by the camera (abstract; Col. 4, Ln. 56-67), the image data capture module comprising a global positioning system to record coordinate of the camera when a photographing is taken (Col. 12, Ln. 51-63), a range finder to record a range to the object of the photograph when the photograph is taken (abstract; Col. 8, Ln. 40-Col. 11, Ln. 61) and a compass to record a magnetic bearing of the object of the photograph when the photograph is taken (Col. 12, Ln. 63-Col. 13, Ln. 3); and

a storage element connected to the processor for storing images and captured image data (Col. 10, Ln. 28-37; Col. 14, Ln. 63-Col. 15, Ln. 15);

wherein the image data capture module is operable to capture an image by performing a method comprising:

using a global positioning system receiver to determine a camera position (Col. 12, Ln. 51-63);

capturing an image with the camera(Figs. 5; 7; camera system 100; CCD 130);

determining a position of an object of the captured image by obtaining global position coordinates of the camera (abstract; Col. 12, Ln. 51-63), obtaining a range from the camera to the object (abstract; Col. 8, Ln. 40-Col. 11, Ln. 61), obtaining a magnetic bearing of the object (Col. 12, Ln. 63-Col. 13, Ln. 3) and calculating the position of the object of the captured image by translating only the range and magnetic bearing from the global position coordinates to provide coordinates of the object (see Figs. 6-11; Col. 2, Ln. 34-43; Col. 10, Ln.28-58; Col. 13, Ln. 4-29); and

storing data indicative of the position of the object of the captured image with the image (Col. 10, Ln. 28-37; Col. 14, Ln. 63-Col. 15, Ln. 15).

With regarding **claim 14**, Ball wherein the image data capture module further comprises: an inclinometer to record an inclination with respect to level of the camera when a photograph is taken (Col. 12, Ln. 63 -Col. 13, Ln. 16).

Claim Rejections - 35 USC § 103

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

15. Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ball in view of Cazier (US-6,657,661).

With regarding **claim 4**, Ball fails to explicitly disclose the method and further comprising: associating captured data with a physical description of the subject of the captured image.

In the same field of endeavor, Cazier teaches a camera system which converting a longitude and latitude coordinate of a captured image to place name information for providing more user friendly information to a user (Fig. 1; 104; Col.2, Ln. 1-27). Cazier teaches that the place name information may be used to store as name or path of a captured image in order to help a user to remember where the filed was created (Col. 2, Ln. 27-Col. 3, Ln. 65). In light of the teaching from Cazier, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Ball to include a place name information converting means in order to associate place name with the name or path of a captured image. The modifications thus provide more meaningful information to a file name or path and remind a user where the image was created (Cazier: Col. 2, Ln. 1-27).

With regarding **claim 5**, Ball in view of Cazier discloses the method wherein associating captured data with a physical description of the subject of the captured image comprises:

comparing the coordinates of the object of the photograph to a set of known coordinates (Ball teach the coordinates of the object of the photograph: abstract; see Figs. 6-11; Col. 2, Ln. 34-43; Col. 10, Ln.28-58; Col. 13, Ln. 4-29; Cazier: Col. 2, Ln. 27-Col. 3, Ln. 65); and

embedding with the captured data textual information about objects having known coordinates corresponding to the coordinates of the object (Cazier: Col. 2, Ln. 27-Col. 4, Ln. 15).

With regarding **claim 6**, Ball in view of Cazier discloses the method wherein embedding further comprises retrieving textual information about the object at the known coordinates (Cazier: Col. 2, Ln. 27-Col. 4, Ln. 15).

With regarding **claim 7**, Ball fails to explicitly disclose the method further comprising: associating captured data with a physical description of the subject of the captured image.

In the same field of endeavor, Cazier teaches a camera system which converting a longitude and latitude coordinate of a captured image to place name information for providing more user friendly information to a user (Fig. 1; 104; Col.2, Ln. 1-27). Cazier teaches that the place name information may be used to store as name or path of a captured image in order to help a user to remember where the filed was created (Col. 2, Ln. 27-Col. 3, Ln. 65). In light of the teaching from Cazier, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify

the device of Ball to include a place name information converting means in order to associate place name with the name or path of a captured image. The modifications thus provide more meaningful information to a file name or path and remind a user where the image was created (Cazier: Col. 2, Ln. 1-27).

With regarding **claim 8**, Ball in view of Cazier discloses the method wherein associating captured data with a physical description of the subject of the captured image comprises:

comparing the coordinates of the object of the photograph to a set of known coordinates (Ball teach the coordinates of the object of the photograph: abstract; see Figs. 6-11; Col. 2, Ln. 34-43; Col. 10, Ln.28-58; Col. 13, Ln. 4-29; Cazier: Col. 2, Ln. 27-Col. 3, Ln. 65); and

embedding with the captured data textual information about objects having known coordinates corresponding to the coordinates of the object (Cazier: Col. 2, Ln. 27-Col. 4, Ln. 15).

With regarding **claim 9**, Ball discloses a method of capturing photographic image information, comprising:

providing a camera with a global positioning system receiver (Col. 2, Ln. 34-43; Col. 12, Ln. 51-63);

capturing an image with the camera (Figs. 5; 7; camera system 100; CCD 130);

obtaining global position coordinates of the camera (Col. 12, Ln. 51-63);

obtaining a range from the camera to the object (abstract; Col. 8, Ln. 40-Col. 11, Ln. 61);

obtaining a magnetic bearing of the object (Col. 12, Ln. 63-Col. 13, Ln. 3);

calculating the position of the object of the captured image by translating only the range and magnetic bearing from the global position coordinates to provide coordinates of the object (see Figs. 6-11; Col. 2, Ln. 34-43; Col. 10, Ln.28-58; Col. 13, Ln. 4-29);

storing data indicative of the position of the object of the captured image with the image (Col. 10, Ln. 28-37; Col. 14, Ln. 63-Col. 15, Ln. 15); and

However, Ball fails to disclose associating captured data with a physical description of the subject of the captured image.

In the same field of endeavor, Cazier teaches a camera system which converting a longitude and latitude coordinate of a captured image to place name information for providing more user friendly information to a user (Fig. 1; 104; Col.2, Ln. 1-27). Cazier teaches that the place name information may be used to store as name or path of a captured image in order to help a user to remember where the filed was created (Col. 2, Ln. 27-Col. 3, Ln. 65). In light of the teaching from Cazier, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Ball to include a place name information converting means in order to associate place name with the name or path of a captured image. The modifications thus provide more meaningful information to a file name or path and remind a user where the image was created (Cazier: Col. 2, Ln. 1-27).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Takahashi (US-7,002,625) discloses a camera having a GPS and environmental sensors for sensing location information in order to classify captured images.

b) Fukahori (US-6,469,698) discloses a camera comprising an absolute position detection means for converting position coordinate into place-name.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung H. Lam whose telephone number is 571-272-7367. The examiner can normally be reached on Monday - Friday 8AM - 5PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LIN YE can be reached on 571-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HL
05/25/08
/Yogesh K Aggarwal/
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